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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,113	10/20/2001	John Vincent Fontana	8364M	6409

27752 7590 10/10/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER

TRUONG, LINH T

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/054,113

Applicant(s)

FONTANA ET AL. *cd*

Examiner

Linh Truong

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4. 6) ☐ Other: ..

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: in line 4, the phrase "...an interior surface the substantially planar patch comprising..." should be changed to "... an interior surface; a substantially planar patch comprising..." for clarity.

Appropriate correction is required.

Claim 4 is objected to because of the following informalities: in line 4, the phrase "...an interior surface; **the** substantially planar patch comprising..." should be changed to "... an interior surface; **a** substantially planar patch comprising..." for clarity.

Appropriate correction is required.

Claim 11 is objected to because of the following informalities: please add the phrase "applicator substrate/patch" before the word "combination" for clarity.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schroeder '6,124, 522.

For claim 1, Schroeder teaches an adhesive applicator comprising; a) an applicator substrate 6 with a graspable, laterally offset tab 8 and an adhesive means 5a, b) a patch 1 with an adhesive means 5b on the first surface and an adhesive 3 on the second surface and, c) a release substrate 9 with a graspable, laterally offset tab 12 and that is releasably attached to patch 1 with a release layer 13a that is coated with silicone (figs. 2 and 4). Schroeder also teaches varying peel bond strengths. The peel bond strength between the patch and the release substrate (second peel bond) is weaker than the peel bond strength between the applicator substrate and the patch (first peel bond) and the first peel bond is weaker than the bond between the patch and the target surface because, when the adhesive applicator is being applied, the user first separates the applicator substrate 6 *and* patch 1 from the release substrate 9, then applies patch 1 onto the target by using the applicator substrate 6, and finally removes the applicator substrate 6 from patch 1, leaving only the patch on the target surface (fig. 5 and col. 7, lines 13-26).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder '6,124, 522 in view of Peterman et al. '5,533,962.

For claims 2-8, in addition to the 102 rejection above, Schroeder teaches an applicator substrate with an adhesive contact area 5 that can be quite large (col. 6, lines 33-35) with a leading edge contact area and a trailing edge contact area and a patch comprising a circumferential lateral edge with leading and trailing edges (fig. 2) but does not teach a non-secured edge. Peterman et al. teach an adhesive bandage (patch) with a circumferential lateral edge that is non-adhesive 4c. Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to substitute the patch of Schroeder with the patch of Peterman et al. in order to provide a non-secured edge for easier and less painful peeling of the patch from a person's skin.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder '6,124, 522 in view of Peterman et al. '5,533,962 and in further view of Wick 6,129,929 (IDS).

For claims 9-10, Schroeder and Peterman et al., as noted above, teaches the claimed invention except for the patch containing a drug. Wick teaches a transdermal patch incorporated with a drug (claim 8). Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to provide the combined inventions of Schroeder and Peterman et al. with a drug for transdermal, therapeutic treatments.

For claim 11, Schroeder teaches that the tab 12 of the release substrate 9 is completely laterally offset from the applicator substrate/patch combination (fig. 4).

For claim 12, Schroeder and Peterman et al., as noted above, teaches the claimed invention except for instructions accompanying the applicator patch. Wick discloses instructions with the patch applicator (col. 6, lines 29-31). Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to provide the combined inventions of Schroeder and Peterman et al. with instructions for applying the applicator patch correctly.

### ***Conclusion***

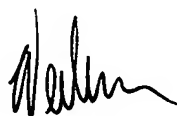
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh Truong whose telephone number is 706-605-4974.

The examiner can normally be reached on M-F 8:30am-5pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Linh Truong

*L.T.*



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